

**HAMPTON ZONING BOARD OF ADJUSTMENT
AMENDED MINUTES
Thursday, December 20, 2007**

Members Present:

Tom McGuirk, Chairman
Bill O'Brien
Jack Lessard
Vic Lessard
Bryan Provencal

Others Present

Kevin Schultz, Building Inspector
Joan Rice, Secretary

Chairman McGuirk called the meeting to order at 7:05 p.m.

The Pledge of Allegiance was said.

Chairman McGuirk introduced the members of the Board.

PETITION SESSION

60-7 The continued petition of Aaron Brown & Eric West for property located at 245 Drakeside Road seeking relief from Articles 4.1, 4.1.1, 4.2 and 4.3 to subdivide the parcel to create a second lot for the purpose of constructing a duplex where relief is needed from certain dimensional requirements. This property is located at Map 157, Lot 7 in a G zone.

Attorney Peter Saari of Casassa & Ryan came forward. Attorney Saari said this property is currently a single family use with a large side yard where the petitioner proposes to put a duplex. This is a mixed use area. A duplex would be an allowed use. This is similar to other projects on the street which have been approved. The lot size is the issue.

Questions from the Board

There were no questions from the Board.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Mr. Vic Lessard asked about sewage and if it would go up the street. Attorney Saari replied that it would. Mr. Vic Lessard said there would have to be an 18" line and possibly the need for two manholes. Mr. O'Brien asked if this would get Planning Board review. Mr. Vic Lessard replied that it would. Mr. Vic Lessard said that the sewer would have to be brought up to the end of the property past the new house.

At this time Attorney Saari went through the five criteria and stated he felt they had been met.

Moved by Mr. Provencal, seconded by Mr. O'Brien, to grant Petition 60-07 with the stipulation that the existing sewer line is to be extended to the most western portion of the new lot, and the sewer line is to be built according to the towns' infrastructure's design.

Chairman McGuirk asked the Board if the five criteria had met. All members agreed they had.

VOTE: 5-0-0. Motion passed.

62-07 The petition of Thomas & Mary Ann Torrisi for property located at 781 Ocean Blvd. Seeking relief from Articles 1.3, 4.5.1 and 4.5.2 to allow addition of stairs to existing building and to allow construction of a new addition to the rear of existing building. Present dwelling does not comply with current setbacks. This property is located at Map 211, Lot 90 in an RA zone.

John Ryan and Thomas Torrisi came forward. Mr. Ryan said his clients would like to remove the existing rear deck and add to the back of the building to put in a new garage and a dining area on the top. Front stairs would be added and they would be outside the existing setback limits.

Chairman McGuirk said that this Board cannot grant any relief from deed restrictions. Kevin Schultz said that the Board will have to be assured that the existing foundation is in good shape. It will require an inspection.

Mr. Ryan went through the five criteria and stated he felt they had been met.

Questions from the Board

Mr. Vic Lessard said that if the Board grants this petition, the building cannot be over 35 feet high.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Mr. O'Brien said he did not feel this petition was advertised correctly. Mr. Ryan replied that they need the variance not to replace the existing structure, but to add new things to the existing structure.

Mr. O'Brien said that they are rebuilding the entire house and looking at the front deck and the proposed second floor height, it will be necessary to raise the deck and they are adding a roof to the front deck that will make it more non-conforming in the setback area ... and it was not advertised that way.

Mr. Torrisi said the roof will be below 35 feet.

Mr. Schultz said that what is stated in the application and what is being said at this meeting are two different things.

Mr. Vic Lessard said that this petition should be continued and be first on next month's agenda.

Mr. Schultz said that the language in the application must be changed to include exactly what is planned – to raise and remove the existing structure to its foundation and to build a new 4-bedroom single family home.

Moved by Mr. Vic Lessard, seconded by Mr. Provencal, to continue Petition 62-07 until next month at which time it will be first on the Agenda.

VOTE: 5-0-0. Motion passed.

63-07 The petition of Neil MacNevin for property located at 8 Thorwald Avenue seeking relief from Article 4.1.1 to allow construction of a replacement single family dwelling on a non-conforming lot of record. This property is located at Map 223, Lot 111 in a RB zone.

Neil and Ruth MacNevin came forward.

Mr. MacNevin said he and his wife have owned this house for 46 years and want to build a new house for their retirement. Mr. MacNevin went through the five criteria and stated he felt they had been met.

Questions from the Board

There were no questions from the Board

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Mr. Vic Lessard, seconded by Mr. O'Brien, to grant Petition 63-07.

Chairman McGuirk asked the Board if the five criteria had been met. The members agreed that they had.

VOTE: 5-0-0. Motion passed.

64-07 The petition of John & Ann Hangen thru Ezra Real Estate, LLC for property located at 165 Island Path seeking relief from Article 2.3.7(C) to subdivide the lot into two lots, building a duplex on the new lot which will meet all of the front, side and rear setbacks and height requirements, and conveying approximately a half acre to Map 281, Lot 43, where the property is in the wetlands buffer and subject to "special provisions" requiring at least 9,500 square feet of land outside of the buffer. This property is located at Map 280, Lot 22 in a RCS zone.

Attorney Peter Saari came forward. He said this matter was scheduled to go before the Conservation Commission next Tuesday. Issues are not resolved.

Moved by Mr. Vic Lessard, seconded by Mr. Provencal, to postpone the hearing of Petition 64-07 until the February meeting.

VOTE: 5-0-0. Motion passed.

After further Board discussion, the applicant requested to withdraw the petition.

Moved by Mr. O'Brien, seconded by Mr. Vic Lessard, to withdraw Petition 64-07.

VOTE: 5-0-0. Motion passed.

65-07 The petition of Thomas Moulton thru Amanda Banks, for property located at 9 Anns Lane seeking relief from Article 3.25d to allow daytime care and grooming of dogs in the business portion of the lot with related retail use, where some food

may be made available in compliance with the Town of Hampton Animal Control Ordinance and other applicable regulations. No overnight boarding will be allowed. This property is located at Map 126, Lot 16 in a B/RA zone.

At this time Mr. Vic Lessard left the meeting and Matt Shaw joined the Board.

Attorney Peter Saari and Amanda Banks came forward.

Attorney Saari said Ms. Banks wants to run a daycare facility for dogs. The ordinance states that the boarding of dogs is not allowed in this zone. He explained that no overnight boarding would take place. Attorney Saari said they had received favorable letters from abutters. Mr. Jack Lessard read the two letters from abutters saying they are in favor of this use. Attorney Saari then went through the five criteria and stated he felt they had been met.

Questions from the Board

Mr. Shaw said he would not want any overnight boarding or weekend use. Mr. Jack Lessard said he was against this use. Mr. Provencal asked if dogs would be there on weekends. Ms. Banks replied that they would not.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Mr. Provencal, seconded by Mr. Shaw, to grant Petition 65-07 with the stipulation that there would be no dogs on the property overnight or on weekends.

Chairman McGuirk asked the Board if the five criteria had been met. Chairman McGuirk, Mr. Provencal and Mr. Shaw agreed that they had. Mr. Jack Lessard and Mr. O'Brien said the criteria were not met.

VOTE: 3-2 (J. Lessard, O'Brien)-0. Motion passed.

66-07 The petition of Vincent & Jeanne Foley, thru Russell Mailloux, for property located at 43 Ocean Drive seeking relief from Article 4.1.1 to raze existing dwelling and construct a new dwelling without the required 15,000 sq. ft. of area. This property is located at Map 305, Lot 47 in an RA zone.

Vincent Foley and Russell Mailloux came forward. Mr. Mailloux went through the five criteria and stated he felt they had been met.

Questions from the Board

There were no questions from the Board.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Mr. Shaw, seconded by Mr. Provencal, to grant Petition 66-07.

Chairman McGuirk asked the Board if the five criteria had been met. All members agreed that they had.

VOTE: 5-0-0. Motion passed.

67-07 The petition of Sally & Laurence Lambert for property located at 19 Concord Avenue seeking relief from Articles 1.3 and 4.5.1 (front setback) to maintain a 9.9 t. front setback in a RB zone where 20 ft. is required in order to change the roof line and add additional living space to their front owner-occupied unit. This property is located at Map 296, Lot 97 in a RB zone.

Attorney Peter Saari came forward. He said the essence of this application is that the existing building is one of those old WWII buildings with a variety of code violations. The walls need to be redone and this is in the application. The ceilings are too low and not properly insulated, etc.

Mr. O'Brien asked if the plan was to basically level the building. Attorney Saari said yes.

Mr. O'Brien said there was a cottage out back and 4 parking spaces are needed for both structures. He said he would recommend moving the structure back 18-20 feet thereby providing the needed parking spaces and some place to dump snow.

Mr. Schultz said that it is possible to move the structure from one side or the other to improve things and that there are a lot of options. Mr. Schultz said he felt the petitioner should withdraw and come back with a new plan.

Moved by Mr. Jack Lessard, seconded by Mr. Provencal, that Petition 67-07 be withdrawn.

VOTE: 5-0-0. Motion passed.

68-07 The petition of Virginia Bergin for property located at 18 Gention Road seeking relief from Article 4.1.1 in order to raze and remove the existing single family home and replace with a new single family home. This property is located at Map 168, Lot 13 in a RB zone.

Virginia Bergin and Leonard Connaughton came forward. Mr. Connaughton went through the five criteria and stated he felt they had been met.

Questions from the Board

There were no questions from the Board.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Mr. O'Brien asked if there would be input from the Conservation Commission on this issue. Mr. Connaughton replied that they have already received approval from the Conservation Commission. Mr. O'Brien indicated that the foundation plan shows an intrusion into the Wetlands for the fireplace. Mr. Connaughton responded that the fireplace has been eliminated per direction of the Conservation Commission. Mr. O'Brien inquired about the existing shed out back in the wetlands. Mr. Connaughton said the shed will be removed.

Moved by Mr. Jack Lessard, seconded by Mr. Provencal, to grant Petition 68-07.

Chairman McGuirk asked the Board if the five criteria had been met. All members agreed that they had.

VOTE: 5-0-0. Motion passed.

The Petition Session of the meeting was completed at 8:45 p.m.

BUSINESS SESSION

Adoption of Minutes – November 15, 2007

Moved by Mr. O'Brien, seconded by Mr. Jack Lessard, to approve the Minutes of November 15, 2007.

VOTE: 5-0-0. Motion passed.

Motion for Rehearing re Petition 54-07 – 4 Atlantic Avenue

Mr. Provencal said that no new evidence had been presented.

Moved by Mr. Provencal, seconded by Mr. Jack Lessard, to deny Petition 54-07.

VOTE: 3-1 (McGuirk) – 1 (Shaw). Motion passed.

Mr. Schultz said Verizon had written a letter. The placement of the antennae on the water tower is slightly lower than what was on the original application. They asked if the Board would have any problem with that. Everyone agreed that it was acceptable. Mr. O'Brien said he did not want to see a cell tower in Hampton whose primary purpose is to serve North Hampton since North Hampton has voted down a Verizon request for a cell tower.

There being no further business, Mr. Jack Lessard **moved**, seconded by Mr. Provencal, that the Business Session be adjourned.

The Business Session was adjourned at 9:45 p.m.

Respectfully submitted,

Joan Rice
Secretary